

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JERRY L. HARRIS,

Plaintiff,

v.

3:07-cv-184

TERRY ARME, et al.,

Defendants.

MEMORANDUM AND ORDER

This is a *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983; plaintiff alleges that on January 26, 2007, he was assaulted by officers during his confinement in the Brushy Mountain Correctional Complex (BMCX), and that he received false disciplinary reports for assault. The matter is before the court on several motions filed by the plaintiff.

Plaintiff has filed a motion for a preliminary injunction and temporary restraining order, in which he asks the court to order that he be transferred to another Tennessee prison while this action is pending and that he not be harassed by the defendants as a result of this lawsuit. Plaintiff also asks the court to issue an order restraining the defendants from destroying any and all documents, logs, audio or video recordings, and other evidence that pertain to this action. Plaintiff's motion for injunctive relief [Court File No. 4] is **GRANTED IN PART** and **DENIED IN PART**.

Since the filing of this action, plaintiff has been transferred to the West Tennessee State Penitentiary. Thus, plaintiff's motion for an order that he be transferred from BMCX

and that he not be harassed by the defendants is **DENIED** as **MOOT**. *See Kensu v. Haigh*, 87 F.3d 172, 175 (6th Cir. 1996) (a prisoner's claim for declaratory and injunctive relief becomes moot upon his transfer to a different facility). Plaintiff's motion for an order restraining the defendants from destroying evidence is **GRANTED** to the extent Arthur Crownover II, Senior Counsel with the Office of the Attorney General for the State of Tennessee and attorney of record for the defendants, is **ORDERED** to conserve and produce for use at trial all evidence, documentary or otherwise, that pertain to this case.

Plaintiff has filed a motion to amend his complaint to add Nurses Tate (first name unknown) and Dale Hadden as defendants. Plaintiff alleges that, in violation of the Eighth and Fourteenth Amendments, they have been deliberately indifference to his serious medical needs which resulted from the assault by BMCX officers. Under the circumstances, the motion to amend [Court File No. 36] is **GRANTED**. The Clerk is **DIRECTED** to send the plaintiff service packets for defendants Tate and Hadden, which plaintiff should return for service for process.

Plaintiff has filed a motion for entry of default against six defendants and claims they have failed to answer the complaint. The defendants moved for, and were granted, additional time within which to answer the complaint and they filed their answer within the time allowed. Plaintiff's motion for entry of default [Court File No. 38] is **DENIED**.

Plaintiff has filed a third motion for appointment of counsel. The court sees no reason to alter the previous orders denying appointment of counsel. The motion [Court File No. 39] is **DENIED**.

E N T E R:

s/ Thomas W. Phillips
United States District Judge